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## March Too Early to Bring Ministers to Geneva: Lamy

**A** late March 'stocktaking' meeting to assess progress in the Doha Round of world trade talks will not involve trade ministers, WTO Director-General Pascal Lamy told a meeting of the organisation's General Council on Monday.

The announcement had been widely expected among followers of the global trade talks. Despite numerous calls from heads of state for the eight-year-old negotiations to be put to bed before the end of this year, members' positions have barely budged. To meet the end-of-year goal, officials will have to secure a major breakthrough - an agreement on 'modalities' deals for the formulas and figures governing members' tariff and subsidy cuts - before the end of the first quarter. That objective now seems almost out of the question.

As always, however, Lamy remained optimistic. "I believe the stocktaking provides an important opportunity to inject the political energy and momentum in the negotiations so that we can hopefully chart the path for cracking the remaining nuts," he told the assembled delegates.

Lamy did not dismiss the 2010 deadline out of hand, noting instead that the question of whether the end-of-year goal remains feasible "is a judgement that belongs to ministers." To that end, he said, "engagement will be needed," but he added that March is "too early" to bring together the necessary top-level officials.

The Director-General noted that he would likely convene senior officials for the stocktaking exercise on 29 and 30 March, although those dates have not been confirmed.

Responding to Lamy's remarks in front of the assembled delegates, trade officials expressed their weariness and frustration with the continued lack of movement in the round. Several delegations complained that their efforts at progress had been hamstrung by senior officials in their home capitals who had not allowed them enough negotiating leeway to finish the job.

Addressing the General Council after Lamy's remarks, Mexican ambassador Fernando de Mateo laid out three potential scenarios for the future of the Doha Round: the talks could muddle on for 2010, slowly becoming even more irrelevant; the negotiations could be suspended, although de Mateo warned that such a scenario would risk allowing the gaps in the talks to widen even further; or, as most delegates hope, the political will could be summoned to close the deal.

At this point, few people are talking seriously about suspending the talks, according to a source close to the negotiations. It is more likely that officials will continue to negotiate, spurred on by particularly enthusiastic WTO members such as Australia and the European Union. Lamy certainly intends to continue forging ahead.

"At a time when many members in this organisation are getting frustrated at the time it takes to realise the gains of this round for them, the negotiating chairs and I can and will chart a path for your engagement," he told delegates. "But however good this path is, you yourselves have to walk it by engaging in negotiations with each other...2010 cannot be a wasted year."

The Doha Round is already the longest-running round of global trade talks in history. The Uruguay Round - which immediately preceded the Doha talks - previously held the record, having lasted a total of seven years and seven months. But each round of world trade talks has lasted longer than the one before it, and many observers say that this one is still worth fighting for.

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## US Imposes Duties on Chinese Steel Pipes

The United States has announced new countervailing duties of between 11 and 13 percent on imports of Chinese steel pipes in the most recent episode in an ongoing trade feud between the two countries.

The 24 February announcement from the US Department of Commerce came in response to a petition requesting countervailing duties filed last October by US Steel and several other companies as well as the United Steelworkers union. They claimed the American steel industry had been significantly harmed by subsidies that China provides to its domestic manufacturers of certain steel pipes.

The petitioners were specifically concerned about imports of seamless carbon and alloy pipe with a diameter of 41 centimetres (16 inches) or less; such pipes are typically used in industrial piping systems. The US imported US\$ 130 million of the pipe from China in 2007, but the amount nearly tripled to US\$ 382 million in 2008.

The group of petitioners is also pushing the White House to impose additional anti-dumping tariffs on the same pipe of at least 60 percent. A decision on that request is expected in April.

Although the petitioners had been hoping for subsidy duties on Chinese steel pipe of 15 to 30 percent, Roger Schagrin, one of the group's attorneys, said they were "still happy" with the duties announced last Wednesday because "they're in the double digits."

Beijing harshly criticised the tariff announcement the following day. "This is the United States abusing its own trade relief measures," said Yao Jian, spokesman for China's Ministry of Commerce.

As of time of writing, China had not launched a WTO dispute over the tariffs; however, such a move is widely expected. The US and China have been trading blows in a series of trade disputes over governmental subsidies, tariffs, and reputed dumping over recent months.

The disputes include Chinese anti-dumping duties on US poultry products, US anti-dumping duties on Chinese-made oil pipes, and US safeguard tariffs on Chinese tyre imports, among other issues. The multitude of trade disputes has heightened political tensions between the two major trading partners.

On 25 February, the day after the Commerce Department's announcement, a bipartisan group of 15 US senators sent a letter to Commerce Secretary Gary Locke urging the Obama administration to investigate the Chinese government for effectively subsidising exports by its undervaluation of the yuan against the US dollar.

In light of the growing friction between Washington and Beijing, two senior US officials - Deputy Secretary of State James Steinberg and senior director for Asian affairs at the National Security Council Jeffrey Bader - went to Beijing on Tuesday to smooth over US-China political and economic relations.

## Yen Strengthens as Exporters Bring Home Profits

The yen strengthened against all 16 of the most-traded currencies as Japanese companies brought home profits before the fiscal year ends, while the British pound weakened on disappointing housing data. Most Asian stocks fell.

Japan's currency climbed 0.85 percent against the pound and 0.6 percent versus the South Korean won on speculation exporters are taking advantage of a tax break enacted last year on repatriated overseas earnings. Commodity shares slid on concern China's metals demand may stagnate. The MSCI Asia Pacific Index and the Stoxx Euro 600 was little changed. Standard & Poor's 500 futures fell 0.1 percent.

The inflow of dollars reflects a recovery in Asian export earnings as the global economy recovers from its worst recession since World War II. The S&P 500 has climbed 68 percent since March 9 last year, when the gauge reached its lowest level following the bankruptcy of Lehman Brothers Holdings Inc.

The yen appreciated to 89.94.00 per dollar from 90.31 on 8 March in New York. It gained to 122.38 per euro from as low as 123.90, the weakest since Feb. 23. The currency strengthened to 12.62 won and to 134.83 yen per pound.

An appreciation in China's currency would also benefit the yen, said Takashi Kudo, general manager of market information in Tokyo at NTT SmartTrade Inc. The yuan, pegged at 6.83 per dollar, faces pressure to appreciate because of a widening interest-rate differential, the State Administration of Foreign Exchange said on 9 March.

## Pound Declines

Sterling declined on a weaker-than-expected home values report. The number of real-estate agents and surveyors saying U.K. house prices rose exceeded those reporting declines by 17 percentage points, the Royal Institution of Chartered Surveyors said.

Sterling, the worst performer among major currencies this year, fell to \$1.4992 per dollar from \$1.5066 as opinion polls stoked concern the U.K. may elect a minority government that will be unable to control the record budget deficit. National elections must be held by June.

The euro traded at \$1.3604 from \$1.3634 on 8 March. Losses in the currency were tempered on speculation wealthier European nations will rescue Greece financially if needed.

Dubai World, the state-owned holding company trying to renegotiate about \$26 billion of debt, will present a plan to creditors this month, three bankers familiar with the talks said on 8 March. The Dubai Financial Market General Index of stocks edged up 0.2 percent, after rising 1.7 percent.

## WTO Chairpersons for 2010

The WTO General Council 22 February noted the consensus on the following slate of names of chairpersons for WTO Bodies:

General Council	H.E. Mr. John GERO (Canada)
Dispute Settlement Body	H.E. Mr. Yonov Frederick AGAH (Nigeria)
Trade Policy Review Body	H.E. Mr. Bozkurt ARAN (Turkey)
Council for Trade in Goods	H.E. Dr. Anthony Mothae MARUPING (Lesotho)
Council for Trade in Services	H.E. Mrs. Elin Østebø JOHANSEN (Norway)
Council for TRIPS	Mr. Martin GLASS (Hong Kong, China)
Committee on Trade and Development	H.E. Mr. ERWIDODO (Indonesia)
Committee on Balance-of-Payments Restrictions	Mr. Raimondas ALIŠAUSKAS (Lithuania)
Committee on Budget, Finance and Administration	Mr. Pasi-Heikki VAARANMAA (Finland)
Committee on Trade and Environment	H.E. Mr. Eduardo MUÑOZ GÓMEZ (Colombia)
Committee on Regional Trade Agreements	H.E. Mr. Alfredo SUESCUM (Panama)
Working Group on Trade, Debt and Finance	H.E. Mr. Federico A. GONZÁLEZ (Paraguay)
Working Group on Trade and Transfer of Technology	H.E. Mr. Hisham M. BADR (Egypt)

The General Council also agreed to renew the appointments of the current chairs of the bodies under the Trade Negotiations Committee, and filled the vacancy in the Special Session of the Council for TRIPS by appointing H.E. Mr. Darlington MWAPE (Zambia) as chair.

These chairpersons are to serve until the next Session of the Ministerial Conference, except for the chairperson of the Negotiating Group on Rules, who has informed the General Council chair that he would shortly be recalled to capital. The new chair of the General Council is expected to undertake consultations on finding a new chair for the Rules Group.

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**Cess on Tractors Applicable under Tractor Cess Rules, 1992**

*Subject: Leviability of cess on tractors under Tractor Cess Rules, 1992.*

916-CBEC It has been brought to the  
04.03.2010 notice of the Board that  
(DoR) Hon'ble High Court of  
Himachal Pradesh in the case  
of Indo Farm Tractors & Motors Ltd. V/s UOI  
[2008(222) ELT184 (HP)], has held that Auto-  
mobile Cess Rules are not applicable for im-  
position of cess on tractors. The said judgement  
was upheld by the Hon'ble Supreme Court in  
CWP No. 895/2005. Subsequent to the said  
judgement, some of the manufacturers have  
stopped paying cess on the tractors manufac-  
tured by them.

2. A reference was made to the Ministry of  
Heavy Industry & Public Enterprises, the ad-  
ministrative ministry responsible for Auto-  
mobile cess, to take suitable action consequent  
to the Court judgement. The Ministry of Heavy  
Industry & Public Enterprises has informed that  
cess on tractors is leviable under the Tractor  
Cess Rules, 1992 and related notifications is-  
sued by the administrative ministry. However,  
existence of these rules were not brought to the  
notice of the Hon'ble Courts and the Hon'ble  
Court has passed the order without having any

occasion to consider these rules. In view of the  
said situation, the opinion of the Law Ministry  
was sought. Law Ministry has clarified that since  
the decision of the Hon'ble High Court was not  
rendered in the context of Tractor Cess Rules,  
1992, therefore, it is legally correct to collect the  
tractor cess as per the law. Further, the Hon'ble  
High Court has also held that the cess on  
tractors can be recovered if the rules are framed  
by the Government. As the rules are already in  
existence, there is no bar on collection of cess.  
In this connection, it is mentioned that Ministry  
of Heavy Industry & Public Enterprises has  
clarified that the Tractor Cess rules, 1992 were  
notified vide Notification No. S.O. 55(E) dated  
19.01.1993 and these are still in existence.  
Further, cess at the rate of 1/8% ad valorem was  
levied vide Notification No. 662(E) dated  
06.09.1985. Copies of the rules and the notifica-  
tions are enclosed.

3. In view of above mentioned legal position, it  
is clarified that tractors are chargeable to tractor  
cess in terms of the Tractor Cess Rules, 1992  
read with the IDRA Act, 1951. Necessary steps  
to collect the cess may be taken.

*F.No.262/01/2008-CX8*

**Commissioner Appeals has Power to Demand Cases to Original  
Jurisdiction for Reconsideration**

*[Ref: F.No.275/34/2006-CX.8A dated 18 February 2010]*

Section 35A(3) of the Central Excise Act, 1944/  
Section 128A(3) of the Customs Act, 1962 as it  
existed before 11.5.2001 provided that Com-  
missioner (Appeals) shall, after making such  
further enquiry as may be necessary, pass such  
order, as he thinks just and proper, confirming,  
modifying or annulling decision or order ap-  
pealed against or may refer the case back to the  
adjudicating authority with such direction as he  
may think fit for a fresh adjudication or decision  
as the case may be, after taking additional  
evidence, if necessary.

2. An amendment was brought out in the afore-  
said sections vide Finance Act, 2001 w.e.f.  
11.5.2001 deleting the phrase as mentioned in  
bold above with an intention to withdraw the  
powers to Commissioner (Appeals) to remand  
the cases for fresh adjudication to the original  
adjudication authorities. After the amendment  
in 2001, the said Sections read as follows:-

"The Commissioner (Appeals) shall, after  
making such further enquiry as may be neces-  
sary, pass such order, as he thinks just and  
proper, confirming, modifying or annulling the  
decision or order appealed against."

3. The matter whether the Commissioner (Ap-  
peals) continues to have powers to remand  
beyond 11.5.2001 came up before the Gujarat  
High Court in the case of M/s. Medico Lab. The  
Hon'ble High Court of Gujarat, vide order  
dated 21.9.2004 in the case of CCE, Ahmedabad-  
I Vs. Medico Lab, held that Commissioner (Ap-  
peals) continues to have the power to remand

even after the amendment.

4. Hon'ble Punjab & Haryana High Court in the  
case of CC, Amritsar Vs. M/s. Enkay (India)  
Rubber Co. Pvt. Ltd. vide order dated 8.3.2007  
and in the case of CCE, Jalandhar Vs. B.C.  
Kataria [2008(221) ELT.508 P&H] vide order  
dated 6.9.2007 had held that the  
Commissioner (Appeals) have been divested of  
the powers to remand the cases back to adju-  
dicating authority after deletion of that power from  
Section 35A(3) of Central Excise Act vide amend-  
ment made in 2001. Hon'ble High Court has  
distinguished the judgement of the Gujarat High  
Court in the case of Medico Labs in this case  
and also stated that the reliance on the Hon'ble  
Supreme Court judgement in the case of Umesh  
Dhaimonde (1998(98) ELT 584 ) cannot be  
made as in that case Hon'ble Supreme Court  
was not dealing with the provisions where ear-  
lier power of remand was specifically conferred  
and subsequently taken away by amendment  
carried by Finance Act, 2001.

5. The Hon'ble Supreme Court in its judge-  
ment dated 1.3.2007 in Civil Appeal No. 6988/  
2005 in the case of MIL India Ltd. [2007(210)  
ELT.188(SC)] has observed that "in fact, the  
power of remand by the Commissioner (Appeals)  
has been taken away by amending Section 35A  
with effect from 11.5.2001 under the Finance  
Bill, 2001. Under the Notes to clause 122 of the  
said Bill it is stated that clause 122 seeks to  
amend Section 35A so as to withdraw the power  
of the Commissioner (A) to remand matters back  
to the adjudicating authority for fresh consid-  
eration." The said decision of the Supreme Court

**Two FTDO Led Team to Carry Out  
Physical Verification of IE Code**

*Subject: Amendment in Policy Circular No.  
94 dated 16.6.2009 – Verification of new  
IEC.*

25-Pol.Cir It has been decided  
22.02.2010 to amend para 2 of  
(DGFT) the above Policy Circular:

2. The physical verification shall be carried  
out by a team of two officials which shall be  
led by an officer not below the rank of FTDO.  
However in exceptional circumstances, and  
with specific orders of the HOO in RA's a two  
member team comprising of one FTDO/  
Section Head/ LA and one UDC/ Senior LDC  
may carry out inspection of new IEC num-  
bers, as required in the para (1) of the Policy  
Circular No. 94 dated 16.6.2009.

3. This issues with the approval of DGFT.

was brought to the notice of CESTAT in the case  
of CCE, Jalandhar Vs. Hawkins Cookers Ltd.  
reported in 2007(8)RLT.7, but the Tribunal held  
that the Supreme Court in the said case had  
only noted the provisions of amended law  
whereas the specific issue whether  
Commissioner(A) has power to remand after  
amendment to provisions of Section 35A has  
been considered by the Hon'ble Gujarat High  
Court in the case of Medico Lab and the High  
Court has held that the Commissioner (A) has  
power to remand under the amended provisions  
also. The appeal (CEA No.29/2008) filed by the  
Commissioner of Central Excise, Jalandhar  
against the said order in the Hawkins Cookers  
case stating that the said observations as quoted  
above are part of the ratio decidendi of the  
decision of the Hon'ble Supreme Court , has  
been allowed by the Punjab & Haryana High  
Court vide order dated 14.7.2008 relying upon  
its own judgement in the case of CCE, Jalandhar  
Vs. B.C. Kataria [2008(221) ELT.508].

6. In the light of the observations of Hon'ble  
Supreme Court in the case of MIL India Ltd. and  
the judgement of Hon'ble High Court of Punjab  
& Haryana in the case of M/s. Enkay (India)  
Rubber Co. Pvt. Ltd., M/s. B.C. Kataria and M/  
s. Hawkins Cookers Ltd., you are requested to  
issue suitable instructions to the Commission-  
ers (A) working under your jurisdiction to follow  
the said judgments strictly. It may also be brought  
to their notice that Hon'ble Supreme Court in the  
case of MIL India Ltd., while noting that the  
powers of remand had been taken away, has  
also categorically stated that the Commissioner  
(A) continues to exercise the power of adju-  
dicating authority in the matter of assessment  
and the Commissioner(A) can add or subtract  
certain items from the order of assessment  
made by the adjudicating authority and the  
order of Commissioner (A) could also be treated  
as an order of assessment. Board instructions  
dated 25.7.2008 (copy enclosed) may be re-  
ferred in this regard.

7. The receipt of this instruction may please  
be acknowledged. A copy of the instruction  
issued to the Commissioners (Appeals) under  
your jurisdiction may also be endorsed to the  
Board. The issue may also be monitored at your  
level.

## Annexure

F.No. 275/34/2006-CX.8A  
Government of India, Ministry of Finance  
Department of Revenue  
Central Board of Excise & Customs  
Legal Section

New Delhi, the 25<sup>th</sup> July, 2008

## Export Warehousing Facility Extended to Gautam Budh Nagar (UP) and Nagpur

*Subject: Export warehousing –Extension of facility at Gautam Budh Nagar in the state of Uttar Pradesh and Nagpur in the state of Maharashtra.*

917-CBEC I am directed to refer to  
04.03.2010 Board's Circular No. 581/18/  
(DoR) 2001-CX dated 29<sup>th</sup> June, 2001  
which inter-alia, specifies  
conditions, procedures, class of exporters and places under sub-rule (2) of rule 20 of Central Excise Rules, 2002 for warehousing of excisable goods for the purpose of export. In paragraph 2(2) of the said Circular, the Board has specified places where warehouses may be established. The Board has received representations from the trade as well as field formations to include Gautam Budh Nagar in the state of Uttar Pradesh and Nagpur in the state of Maharashtra in the list of places mentioned in the said Circular.

2. The matter has been examined. Board is of the view that extension of the facility of export warehousing to Gautam Budh Nagar district in the state of Uttar Pradesh and Nagpur district in the state of Maharashtra would facilitate the trade and industry. Accordingly, it is decided to amend paragraph 2(2) of the said Circular dated 29.6.2001 to include Gautam Budh Nagar district in the state of Uttar Pradesh and Nagpur district in the state of Maharashtra.

3. In the said paragraph, after the words "district of Thiruvallur in the state of Tamilnadu" the following shall be added;

"and the district of Gautam Budh Nagar in the state of Uttar Pradesh and the district of Nagpur in the state of Maharashtra"

4. The field formations may suitably be informed.

F.No.209/16/2001-CX.6

## Implementation of Tobacco Products Labelling

*Subject: Implementation of the provisions of COTP Act, 2003 and The Cigarettes and Other Tobacco Products (Packaging and Labelling) Rules, 2008"- Empowering the Customs & Central Excise Officers.*

918-CBEC Please refer to the Board's  
04.03.2010 Circular No. 896/16/2009-CX  
(DoR) dated 01.09.2009, issued on  
the above referred subject

matter. Ministry of Health & Family Welfare has amended the Notification dated 30.07.2009 [S.O.1866 (E)] vide Notification dated 06.01.10 [S.O.23 (E)] (copy enclosed). The effect of the Notification is that the officers at the level of Superintendents and above of the Customs & Central Excise department are empowered for entry, search and seizure only at the premises registered under the Central Excise & Customs. Therefore, officers are not empowered to enter, search etc. for premises which are not registered with the department for carrying out any act under the COTP Act, 2003.

2. Trade & Industry as well as field formations may be suitably informed.

F.No.267/50/2007-CX8

To

All Chief Commissioners of Central Excise  
All Chief Commissioners of Customs  
All Chief Commissioners of LTU

*Subject: Procedure in Appeal under Sec.35A of the Central Excise Act/Section 128A of Customs Act/Sec.85 of the Finance Act, 1994.*

Sir/Madam,

Section 35A of the Central Excise Act, 1994 prescribes the procedure in appeal to be followed by Commissioner (Appeals) while deciding the appeals filed before him under Section 35/35E of the Central Excise Act 1944. Similar provisions exist under Section 128A of the Customs Act, 1962 and Section 85 of the Finance Act, 1994.

2. Sub-Section (3) of the Section 35A of Central Excise Act, 1994 reads as follows-

The Commissioners(Appeals) shall, after making such further enquiry as may be necessary, pass such order, as he thinks just and

proper, confirming, modifying or annulling the decision or order appealed against;

3. The Board has noted that Commissioner (Appeals) do not resort to the mechanism of further enquiry as provided to them under the appeal procedure as above in such cases where it may be necessary before passing the order. Sub-Rule 4 of Rule 5 of Central Excise (Appeals) Rules, 2001 provides that nothing contained in said rule shall affect the power of the Commissioner (Appeals) to direct the production of any document, or the examination of any witness to enable him dispose of the appeal.

4. In the light of the provisions as contained in the statute and the rules made there under, I am directed to request you to advise Commissioners (Appeals) working in your jurisdiction to resort to enquiry in such appeals as may be necessary in the facts and circumstances of the case before passing a just and fair order in accordance with the provisions of the Act.

## Export of Rice to Sri Lanka and Nepal Allowed through PEC/MMTC

*Subject: Prohibition on Export of Non-basmati Rice – exemption*

33-Ntfn(RE) In exercise of the powers  
03.03.2010 conferred by Section 5 read  
(DGFT) with Section 3(2) of the  
Foreign

Trade (Development & Regulation) Act, 1992 (No.22 of 1992) and also read with Para 1.3 and Para 2.1 of the Foreign Trade Policy, 2009-2014, the Central Government hereby makes, with immediate effect, the following amendment to Notification No.38 (RE-2007)/2004-2009, dated 15.10.2007 read with Notification No. 93 (RE-2007)/2004-2009 dated 1.4.2008, as amended from time to time.

2. Following shall be added at the end of Para 2.1 of the Notification No. 93 (RE-2007)/2004-09 dated 1<sup>st</sup> April, 2008:

"2.1.11 With immediate effect, ban on export of Non-basmati rice shall also not be applicable to export of 20,000 MT of rice (Ponni Samba) to Sri Lanka through PEC.

2.1.12 With immediate effect, ban on export of Non-basmati rice shall also not be applicable to export of 25,000 MT of Non-basmati rice to Nepal through MMTC."

3. The above export shall be subject to the following conditions:-

(a) The rice to be exported shall be with a minimum of 25% of broken;

(b) Export will be undertaken directly, and only by the designated PSU/s. There will not be any associate exporter

(c) Recipient country will be advised by MEA to enter into contracts for the exports only with the designated PSUs, in terms of GATT provi-

sions and designation of a private contractor by the importing country, to supply rice will not be entertained. MEA will inform the concerned PSU(s) about the designated buying agency in the importing country;

(d) The PSU/s will procure rice through tender as per guidelines prescribed by the Department of Commerce vide O. M. No. 7/4/2009 – FT(ST) dated 18.2.2010;

(e) The PSU(s) will buy rice from the markets all over the country. The Supplier(s) will provide the necessary certificate to the PSU(s) confirming that rice has been procured to this effect. The supplier(s) will also provide a certificate to the effect that the rice is bought from those rice mills who have already met their levy rice requirements as stipulated in their respective States.

(f) The PSU /s will procure rice at a price as close to as possible to the derived MSP so as not to disturb the existing price situation in the domestic market;

(g) PSU(s) will supply rice to the designated country at a commercially negotiated price;

(h) The end point verification of the exports reaching the destination will be filed by the PSU(s) and for this purpose, the PSU(s) will obtain landing certificates from the port(s) of discharges.

(i) The above quantity shall be exported by PSUs during KMS 2009-10;

3. All other provisions of the Notification No.93 (RE-2007)/2004-09 dated 1<sup>st</sup> April, 2008, as amended from time to time, shall remain unchanged, and shall continue to apply.

4. This issues in public interest.

**[Ref: Ministry of Health and Family Welfare (Department of Health and Family Welfare) Notification dated 6<sup>th</sup> January 2010]**

In exercise of the powers conferred by sub-section (1) of Section 25 of the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (34 and 2003), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Health and Family Welfare number S.O. 1866(E), dated the 30<sup>th</sup> July, 2009,

namely:-

In the notification of the Government of India in the Ministry of Health and Family Welfare number S.O. 1866(E), dated the 30<sup>th</sup> July, 2009, in the Table, for the existing entries under column (3), relating to serial number 1, the following entries shall be substituted, namely:-

All premises registered under Department of Revenue.

[F.No. P-16011/7/2005-PH-I]

## **Dumping Investigation Initiated on PVC Flex Films from China**

**[Ref: No. 14/04/2010-DGAD dated 1<sup>st</sup> February 2010]**

*Subject: Initiation of Anti-dumping investigation concerning imports of PVC Flex Films originating in or exported from China PR.*

Whereas M/s. Pioneer Polyleathers Pvt. Ltd. (hereinafter referred to as applicant) have filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance with the Customs Tariff Act, 1975 as amended in 1995 (hereinafter referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the Rules), alleging dumping of PVC Flex Films, originating in or exported from China PR and requested for initiation of anti dumping investigations for levy of anti dumping duties on the subject goods.

2. AND WHEREAS, the Authority finds sufficient prima facie evidence of dumping of the subject goods from China PR and injury to the domestic industry and causal link between the dumping and injury, the Authority hereby initiates an investigation into the alleged dumping, and consequent injury to the domestic industry in terms of the Rule 5 of the said Rules, to determine the existence, degree and effect of any alleged dumping and to recommend the amount of anti-dumping duty which, if levied, would be adequate to remove the injury to the domestic industry.

### **Product under consideration**

3. The product under consideration for the present investigation is PVC Flex Films, also known as PVC Flex Banners, PVC Flex Sheets for advertising signage, billboards, PVC films and tarpaulins etc., (hereinafter referred to as subject goods). The product is a multi-layered PVC film with sand-witch lamination of reinforcement textile. This laminated product called flex is used for advertisement industry. The PVC Flex Film can be of different types depending upon its quality and characteristics like front lit or back lit and glossy or Mattie.

4. PVC Flex Films are classified under Chapter 39 of the Customs Tariff Act, 1975, under Tariff Heading Nos. 3920 and 3921. The information received from IBIS shows that the material is being imported and cleared under a large number of other customs classifications, which includes 39201019, 39201012, 39204900, 39219026, 39219029, 39269099, 39199090, 39181090, 39189090, and 39269080. The cus-

toms classification is however, indicative only and in no way binding on the scope of the present investigation.

### **Domestic industry standing**

5. The present application has been filed by M/s. Pioneer Polyleathers Pvt. Ltd. According to the information provided in the application, the production of the M/s. Pioneer Polyleathers Pvt. Ltd constitutes 100% of the Indian production. Thus the applicant shall constitute "domestic industry" for the purpose of the present investigations.

6. The Authority, after examining the above, determines that the applicant constitutes domestic industry within the meaning of the Rule 2 and the application satisfies the criteria of standing in terms of Rule 5 of the Rules supra.

### **Country involved**

7. The country involved in the present investigation is the People's Republic of China (hereinafter referred to as China PR or the subject country).

### **Like article**

8. The applicant has claimed that there is no significant difference in the goods produced by them and those originating in or exported from China PR. Both products are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Both the products are technically and commercially substitutable and hold closely resembling characteristics. It is further claimed that the consumers have used the two interchangeably. Therefore, for the purpose of present investigation, subject goods produced by the applicant are being treated as "like article" to the subject goods imported from subject country within the meaning of the Rules supra.

### **Normal value**

9. The applicant has claimed that China PR should be treated as non-market economy and normal value should be determined in accordance with Para 7 of Annexure I of the Anti Dumping Rules. The applicant has proposed South Korea as an appropriate market economy

third country. The Authority at the stage of initiation, has however considered the cost of production in India, duly adjusted, for selling, general and administrative costs and profit as the basis of normal value. Individual Chinese exporters may rebut this presumption and the Authority shall examine the market economy claims of individual exporters in terms of the relevant Rules. There is sufficient evidence of normal value of the subject goods in China PR.

### **Export price**

10. The export price of the subject goods from the subject country has been claimed on the basis of data obtained from International Business Information Services (IBIS), Mumbai. Price adjustments have been claimed on account of ocean freight, marine insurance, port expenses and inland freight. There is sufficient evidence of export price of the subject goods from China PR.

### **Dumping margin**

11. Normal value and export price have been compared at ex-factory level, which shows significant dumping margin in respect of the subject country. There is sufficient evidence that normal value of the subject goods in the China PR, which is significantly higher than the ex-factory export price indicating, prima-facie, that the subject goods are being dumped by exporters from China PR into the Indian market.

### **Injury and causal link**

12. The applicant has set up a new facility for production of the product under consideration and commenced commercial production within the investigation period. The applicant has claimed that dumping of the product under consideration in India is materially retarding the establishment of the domestic industry. The applicant has furnished information on various parameters relating to injury for the period for which it has commercial production. Further, the applicant has provided detailed information with regard to its potential performance on the basis of projections drawn by it before setting up the plant and has compared its potential performance with the actual performance achieved till the investigation period to establish its claim that its performance is substantially below the potential levels envisaged before setting up the plant. The applicant has also claimed that its performance improved initially after commencement of commercial production. However, the same deteriorated after some time in terms of production, capacity utilization, sales, market share, profits, return on investments, cash profits, etc. inspite of reduction in the selling prices. The imports are undercutting the prices of the domestic industry. The domestic industry is forced to sell the product at prices materially below the fair prices envisaged by the domestic industry before commencement of production. The applicant has thus claimed that even when its commercial production has begun, the domestic industry is yet to find its place in the market. Parameters such as significant increase in imports in absolute terms as also relative to the production and consumption in India, significant price undercutting, capacity utilization market share, continued financial losses, return on investments, cash flow, inventories, collec-

tively and cumulatively show that the applicant has suffered material injury. There is sufficient evidence that the dumped imports of subject goods from China PR are, prima facie, causing material injury to the domestic industry.

### Initiation of anti-dumping investigations

13. The Designated Authority, in view of the foregoing paragraphs, initiates anti-dumping investigations into the existence, degree and effect of alleged dumping of the subject goods originating in or exported from the subject country.

### Period of Investigation

14. The Period of Investigation for the purpose of the present investigation is 1st April 2008 to 30th September 2009 (18 months). The injury investigation period will cover each quarter of POI (April-June 2008, July-September 2008, October-December 2008, January-March 2009, April-June 2009 and July-September 2009), considering the petitioner has commenced production only in April 2008.

### Submission of information

15. The known exporters in China PR, their Government through the Embassy, the importers in India known to be concerned with this investigation and the domestic industry are being addressed separately to submit relevant information in the form and manner prescribed and to make their views known to the Designated Authority at the following address:

The Designated Authority, Directorate General of Anti Dumping & Allied Duties, Ministry of Commerce & Industry, Department of Commerce, Government of India, Room No. 243, Udyog Bhavan, New Delhi – 110107.

16. As per Rule 6(5) of Rule supra, the Designated Authority is also providing opportunity to the industrial users of the article under investigation and to representative consumer organizations, who can furnish information relevant to the investigation regarding dumping, injury and causality. Any other interested party may also make its submissions relevant to the investiga-

tion within the time limit set out below.

### Time limit

#### General Time Limits

17. Any information relating to the present investigation should be sent in writing so as to reach the Authority at the address mentioned above not later than 40 (forty) days from the date of publication of this notification. The known exporters and importers, who are being addressed separately, are however required to submit the information within forty days from the date of the letter addressed to them separately.

#### Specific Time limit for selection of market economy third country

18. Interested parties to the investigation may wish to comment on the appropriateness of South Korea, which is envisaged as a market economy third country for the purpose of establishing normal value in respect of China PR. These comments must be submitted within two weeks from the date of publication of this notification.

### Submission of information

19. In terms of Rule 6(7) of the Rules, the interested parties are required to submit non-confidential summary of any confidential information provided to the Authority and if in the opinion of the party providing such information, such information is not susceptible to summarization, a statement of reason thereof, is required to be provided. In case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Designated Authority may record findings on the basis of facts available and make such recommendations to the Central Government as it deemed fit.

### Inspection of public file

20. In terms of Rule 6(7), the Designated Authority maintains a public file. Any interested party may inspect the public file containing non-confidential version of the evidence submitted by interested parties.

## Electronic Payment of Service Tax Must for Assessee above Rs. 10 Lakhs

01-ST In exercise of the powers  
19.02.2010 conferred by sub-sections (1)  
(DoR) and (2) of section 94 of the  
Finance Act, 1994 (32 of  
1994), the Central Government hereby makes the following rules further to amend the Service Tax Rules, 1994, namely :-

1. **Short title and commencement.** (1) These rules may be called the Service Tax (Amendment) Rules, 2010.

(2) They shall come into force on the 1<sup>st</sup> day of April, 2010.

2. In the Service Tax Rules 1994 (hereinafter referred to as the said rules), in rule 6, in sub-rule (2), for the proviso, the following proviso, shall be substituted, namely:-

“Provided that where an assessee has paid a total service tax of rupees ten lakh or more including the amount paid by utilisation of CENVAT credit, in the preceding financial year, he shall deposit the service tax liable to be paid by him electronically, through internet banking.”

3. In the said rules, in rule 7, after sub-rule (2), the following proviso shall be inserted, namely:-

“Provided that where an assessee has paid a total service tax of rupees ten lakh or more including the amount paid by utilisation of CENVAT credit, in the preceding financial year, he shall file the return electronically”.

[F. No. 137/13/2010 - CX.4]

## Free Samples of Drugs Value to be Assessed under Value for similar Goods under Rule 4A of Excise Valuation Rules

*Subject: Clarification regarding valuation of free samples of the products covered under MRP based assessment.*

915-CBEC Attention of field formations is  
19.02.2010 invited to Board's circular No.  
(DoR) 813/10/2005-CX dated  
25.4.2005 issued from F.No. 6  
39/2000- CX1 wherein it was clarified that in the case of free samples, the value should be determined under Rule 4 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000.

2. A larger bench of CESTAT in the case of Blue Cross Laboratories Vs CCE, Mumbai 2006(202) ELT 152 (T-LB), has also held that physician samples are to be assessed under rule 4 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000. Further, the aforesaid circular of 2005 has also been upheld by the Hon'ble High Court of Mumbai in the case of Indian Drugs Manufacturer's Association Vs. UOI, reported at 2008(222) ELT 0022 (Bom).

3. Subsequently, CESTAT in its majority decision in the case of M/s Cadila Pharmaceuticals Ltd. Vs Commissioner of Central Excise Ahmedabad II, reported at 2008 (232) ELT 0245

## Silk other than Original Fibre in Export Product Allowed under Advance Licence

47-PN(RE) In exercise of the powers  
04.03.2010 conferred under Paragraph 2.4  
(DGFT) of the Foreign Trade Policy,  
2009-14 and Paragraph 1.1 of  
the Handbook of Procedures (Vol.I), the Director General of Foreign Trade hereby makes the following amendments/corrections in the Handbook of Procedures, Vol. 2, 2009-2014, as

amended from time to time.

2. In the statement of Standard Input Output Norms (SION), as contained in the Handbook of Procedure (Vol. 2), 2009-2014, as amended from time to time, amendments at appropriate place as mentioned in ANNEXURE "A" to this Public Notice are made.

3. This issues in Public interest.

### ANNEXURE "A" to Public Notice No. 47/2009-14 dated 04.03.2010

In the General Note No. 4 for Textiles (Product Code: J) the following is incorporated for allowing flexibility for import of any alternative import items of Silk from the permissible inputs of SION:-

S.No	Export Product	Alternative inputs allowed
1	Made out of Mulberry Raw Silk	Dupion Silk/Tussar Silk/Spun Silk/Noil Silk
2	Made out of Dupion Silk	Tussar Silk/Spun Silk/Noil Silk
3	Made out of Tussar Silk/ Spun Silk	Spun Silk/Noil Silk

In case the export product is made out of more than one variety of Silk then, the alternate inputs will be allowed (as in table above) in proportion to the ratio of constituents of Silk or in proportion to the ratio of Spun Silk blended with other fibres like Cotton/Viscose etc.

(Tri.-LB), has held that even after the pharmaceutical products have been notified for MRP assessment under Section 4A of the Central Excise Act, the assessment of free physician samples of these products, is appropriately required to be done under Rule 4 of the valuation rules by taking into consideration the deemed value under Section 4A(1) notwithstanding the non availability of normal price under Section 4(1)(a) of the Act, *ibid.* Accordingly, the value for payment of excise duty for physician sample would be the value determined under Section 4A for the similar goods (subject to adjustment for size & pack etc.)

4. The aforesaid decision of CESTAT would, mutatis mutandis, be applicable in respect of free samples of other products which are under MRP assessment. Accordingly, it is clarified that valuation of Samples which are distributed free as part of marketing strategy, or as gifts or donations, shall be determined, in terms of Board's circular No. 813/10/2005-CX dated 25.4.2005 and the aforesaid decisions of CESTAT, as explained in foregoing paras 2 & 3, whether the final products are assessed under MRP based assessment or otherwise.

5. Trade and Industry may be informed.  
F No. 6/5/2009-DS (CX-I & 4)

## EO Default may be Paid through DEPB

32-Ntfn(RE) In exercise of powers  
26.02.2010 conferred by Section 5 of  
(DGFT) the Foreign Trade  
(Development and

Regulation) Act, 1992 (No. 22 of 1992) read with Para 1.3 of the Foreign Trade Policy (FTP), 2009-14, the Central Government hereby makes the following amendment in Foreign Trade Policy:

1. The first sentence of Para 3.17.11 of FTP 2009-14 is replaced as under:

"Duty Credit Scrips can also be used / debited towards payment of Customs Duties in case of EO defaults under Authorizations issued under Chapters 4 and 5 of the Policy".  
This issues in Public Interest.

## Focus Product Benefits for Toilet and Kitchen Linen of Terry Fabrics

46-PN(RE) In exercise of the powers conferred under Paragraph 2.4 of the Foreign Trade  
26.02.2010 Policy, 2009-14, the Director General of Foreign Trade, hereby, makes the  
(DGFT) following amendments/additions in HBPV1 (Appendices and Aayat Niryat  
Forms), for benefits on exports made on or after 1.1.2010:

1. The following Focus Products shall be added in Appendix 37D, Table 4:

SNo.	FPS Product Code	ITC (HS) Code	Description
98	98	63026000	Toilet linen and kitchen linen, of terry toweling or similar terry fabric, of cotton
		63029900	Toilet linen and kitchen linen, of other textile materials

This issues in public interest.

## Brass Scrap Tariff Value Hiked by US \$177/MT

19-Cus(NT) In exercise of the powers  
27.02.2010 conferred by sub-section (2) of  
(DoR) section 14 of the Customs Act,  
1962 (52 of 1962), the Board,  
being satisfied that it is necessary and expedi-  
ent so to do, hereby makes the following further

amendment in the notification of the Govern-  
ment of India in the Ministry of Finance (Depart-  
ment of Revenue), No. 36/2001-Cus (N. T.),  
dated, the 3<sup>rd</sup> August 2001, namely: -

In the said notification, for the Table, the follow-  
ing Table shall be substituted namely:-

Table

SNo.	Chapter/ heading/ sub-heading /tariff item	Description of goods	Tariff value US \$ (Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	447 (i.e. no change)
2	1511 90 10	RBD Palm Oil	476 (i.e. no change)
3	1511 90 90	Others – Palm Oil	462 (i.e. no change)
4	1511 10 00	Crude Palmolein	481 (i.e. no change)
5	1511 90 20	RBD Palmolein	484 (i.e. no change)
6	1511 90 90	Others – Palmolein	483 (i.e. no change)
7	1507 10 00	Crude Soyabean Oil	580 (i.e. no change)
8	7404 00 22	Brass Scrap (all grades)	3732
9	1207 91 00	Poppy seeds	4640"

[F. No. 467/4/2010-Cus.V]

## Online Reporting System for Overseas Direct Investments from 2 March

Sub: Overseas Investment Application - Online Reporting of Overseas Direct Investment in Form ODI

AP(DIR Srs) Attention of Authorised Dealer  
Cir.36 Category - I (AD Category - I)  
24.02.2010 banks is invited to A.P. (DIR  
(RBI) Series) Circular No. 68 dated  
June 1, 2007, revising the  
reporting package on Overseas Direct Invest-  
ment (ODI) by the Indian Parties. Further, it was  
also mentioned in the circular that the ODI  
forms would be received on-line by the Reserve  
Bank, in due course.

2. Accordingly, it has been decided to  
operationalise the on-line reporting system in a  
phased manner, with effect from March 2, 2010,  
to simplify the existing reporting framework.  
The new system would enable on-line genera-  
tion of the Unique Identification Number (UIN),  
acknowledgment of remittance/s and filing of  
the Annual Performance Reports (APRs) and  
easy accessibility to data at the AD level for  
reference purposes.

3. As per the plan, initially, Part I (Sections A to D), II and III of form ODI should be filed on-line in the Overseas Investment Application for allotment of UIN, reporting of subsequent remittances, filing of APRs, etc. AD Category –I banks would continue to receive the ODI forms in physical form, as stipulated in the A. P. (DIR Series) Circular No. 68 dated June 1, 2007, which should be preserved, UIN wise, for on-ward submission to the Reserve Bank, if specifically required. Transactions in respect of Mutual Funds, Portfolio Investment Scheme (PIS) and Employees Stock Options Scheme (ESOPS) are also required to be reported on-line in the Overseas Investment Application.

4. The on-line reporting would be required to be made by the Centralized Unit/Nodal Office of AD Category - I banks. The Overseas Investment Application would be hosted on the Reserve Bank's Secured Internet Website (SIW) <https://secweb.rbi.org.in> and a link would be made available for accessing the Application on the main page of the website. AD Category – I banks would be responsible for the validity of the information reported on-line. The detailed operational guidelines for accessing the Overseas Investment Application are being communicated to the AD Category - I banks separately.

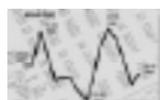
5. The application for overseas investment under the approval route would continue to be submitted to the Reserve Bank in physical form as hitherto, in addition to the on-line reporting of Part I as contemplated above, for approval purposes. Further, the transactions relating to closure / disinvestment/ winding up/ voluntary liquidation of the overseas Joint Ventures/W wholly Owned Subsidiaries (JVs / WOSs) under the automatic and approval routes (Part IV of form ODI) would continue to be submitted to the Reserve Bank in physical form as is being done at present.

6. As per the new reporting system, AD Category – I banks would be able generate the UIN on-line under the automatic route. However, subsequent remittances under the automatic

World Bank Pinksheet issued in March 2010 covers price movements in 43 energy and non-energy products is published by the World Bank every month. This Pink Sheet focuses on price movements in February 2010.

## Crude, Gold, Silver and Sugar on the Down Trend

- Crude and Coal down. Natural gas steady.
- Cocoa and Coffee down. Tea, Mombasa up.
- Copra and Coconut oil up. Groundnut oil, Palm oil and Palm Kernel oil up. Soybean meal, Soybean oil and Soybeans down.
- Thai Rice down, Maize, Barley and Sorghum down.
- Wheat down. Bananas, EU up. Oranges down.
- Shrimp up. Meat, beef up, Fishmeal down.
- World sugar down.
- Logs down. Plywood steady, Woodpulp up. Sawnwood down.
- Cotton and Rubber up.
- DAP up. Phosphate rock up. Urea and TSP up. Potassium Chloride down.
- Gold and Silver down
- Iron ore steady. Aluminium, Copper, Lead, Tin and Zinc down. Nickel up.
- Steel sheets steady. Steel rebar up, Steel Wire Rod steady.



	Monthly averages			Quarterly averages					Annual averages		
	2009		2010	2008		2009			2008	2009	2010
	Dec	Jan	Feb	Oct-Dec	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec	Jan-Dec	Jan-Dec	Jan-Feb

### Energy

Coal, Australia \$/mt	83.10	97.00	94.19	92.97	71.93	66.48	71.31	77.66	127.10	71.84	95.60
Crude oil, average \$/bbl	74.88	77.12	74.76	56.00	44.11	59.19	68.21	75.50	96.99	61.76	75.94
Crude oil, Brent \$/bbl	74.67	76.37	74.31	55.89	44.98	59.13	68.37	74.97	97.64	61.86	75.34
Crude oil, Dubai \$/bbl	75.49	76.64	73.56	53.67	44.56	58.93	68.07	75.46	93.78	61.75	75.10
Crude oil, West Texas Int. \$/bbl	74.49	78.36	76.41	58.45	42.80	59.52	68.21	76.08	99.56	61.65	77.38
Natural gas Index 2000=100	164.4	178.3	172.5	266.2	198.2	142.9	123.3	149.4	267.9	153.5	175.4
Natural gas, Europe \$/mmbtu	8.01	8.80	8.80	15.75	11.94	8.18	6.91	7.81	13.41	8.71	8.80
Natural gas, US \$/mmbtu	5.37	5.81	5.34	6.40	4.57	3.70	3.17	4.36	8.86	3.95	5.57
Natural gas LNG, Japan \$/mmbtu	9.76	10.50	10.50	14.62	10.90	7.60	7.91	9.33	12.53	8.94	10.50

### Beverages

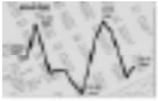
Cocoa ¢/kg	350.9	352.3	329.6	224.1	259.4	257.9	296.4	341.8	257.7	288.9	341.0
Coffee, Arabica ¢/kg	348.7	350.3	348.0	267.8	283.9	320.2	322.7	341.7	308.2	317.1	349.2
Coffee, robusta ¢/kg	154.1	154.5	149.6	192.6	175.8	165.3	160.1	156.4	232.1	164.4	152.1
Tea, auctions (3) average ¢/kg	297.4	289.8	288.5	206.6	218.0	266.1	303.6	301.9	242.0	272.4	289.1
Tea, Colombo auctions ¢/kg	326.7	341.1	334.3	208.8	261.7	299.1	356.1	338.0	278.9	313.7	337.7
Tea, Kolkata auctions ¢/kg	267.7	243.8	237.4	220.2	177.4	271.3	273.0	284.4	225.5	251.5	240.6
Tea, Mombasa auctions ¢/kg	297.7	284.5	293.8	190.8	214.9	228.0	281.7	283.2	221.8	252.0	289.1

### Fats and Oils

Coconut oil \$/mt	768	784	795	772	677	779	711	734	1,224	725	790
Copra \$/mt	509	524	538	520	447	513	469	491	816	480	531
Groundnut oil \$/mt	1,192	1,316	1,380	1,773	1,283	1,166	1,133	1,152	2,131	1,184	1,348
Palm oil \$/mt	792	793	798	512	577	743	679	732	949	683	796
Palmkernel oil \$/mt	829	878	892	609	577	763	700	761	1,130	700	885
Soybean meal \$/mt	401	404	376	320	365	424	431	412	424	408	390
Soybean oil \$/mt	935	923	915	830	755	863	856	921	1,258	849	919
Soybeans \$/mt	450	436	405	377	394	461	454	439	523	437	421

### Grains

Barley \$/mt	150.6	146.5	137.4	129.5	116.3	129.5	122.0	145.5	200.5	128.3	142.0
Maize \$/mt	164.6	167.3	161.8	168.4	166.9	176.0	151.3	167.8	223.1	165.5	164.6
Rice, Thailand, 5% \$/mt	591.0	568.8	534.3	564.4	586.3	552.4	539.0	542.3	650.2	555.0	551.6
Rice, Thailand, 25% \$/mt	515.3	510.6	473.7	449.9	469.4	458.7	441.4	462.8	n.a.	458.1	492.1
Rice, Thailand, 35% \$/mt	n.a.										
Rice, Thai, A.1 \$/mt	403.0	420.2	403.0	314.1	323.4	326.3	309.7	346.1	482.3	326.4	411.6



	Monthly averages			Quarterly averages					Annual averages		
	2009		2010	2008	2009			2008	2009	2010	
	Dec	Jan	Feb	Oct-Dec	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec	Jan-Dec	Jan-Dec	Jan-Feb
Sorghum \$/mt	166.3	161.8	154.1	151.0	145.3	155.8	139.3	163.8	207.8	151.1	157.9
Wheat, Canada \$/mt	287.8	287.2	279.0	322.1	321.9	325.6	271.2	283.4	454.6	300.5	283.1
Wheat, US, HRW \$/mt	206.3	201.2	194.0	228.1	231.6	250.5	208.8	205.4	326.0	224.1	197.6
Wheat, US SRW \$/mt	206.5	198.8	191.8	182.7	187.4	195.6	165.2	195.6	271.5	186.0	195.3
<b>Other Food</b>											
Bananas EU \$/mt	989	941	976	944	1,142	1,288	1,118	1,032	1,188	1,145	959
Bananas US \$/mt	796	785	720	847	891	858	826	813	844	847	753
Fishmeal \$/mt	1,651	1,681	1,628	1,023	1,013	1,097	1,276	1,535	1,133	1,230	1,655
Meat, beef ¢/kg	280.0	295.1	312.5	268.0	245.2	262.8	273.2	273.5	313.8	263.6	303.8
Meat, chicken ¢/kg	164.7	166.4	166.9	174.7	173.5	174.1	173.9	165.1	169.6	171.7	166.6
Meat, sheep ¢/kg	447.5	460.9	451.4	410.0	378.5	428.7	453.3	450.1	458.5	427.6	456.2
Oranges \$/mt	1,014	1,089	982	842	799	870	861	1,107	1,107	909	1,036
Shrimp, Mexico ¢/kg	794	805	838	1,014	976	970	970	864	1,069	945	821
Sugar EU ¢/kg	48.92	47.81	45.85	51.97	51.44	53.76	55.43	49.11	69.69	52.44	46.83
Sugar US ¢/kg	73.42	86.77	88.74	44.72	43.82	47.89	57.31	70.48	46.86	54.88	87.75
Sugar, world ¢/kg	51.87	58.36	55.98	26.28	28.85	33.89	46.98	50.29	28.21	40.00	57.17
<b>Timber</b>											
Logs, Cameroon \$/cum	452.7	442.4	424.3	473.8	426.8	394.8	414.9	449.5	526.9	421.5	433.4
Logs, Malaysia \$/cum	264.8	258.2	252.8	315.7	313.6	284.5	279.6	271.1	292.3	287.2	255.5
Plywood ¢/sheets	557.2	557.2	557.2	645.5	572.8	565.8	561.5	558.4	645.5	564.6	557.2
Sawnwood, Cameroon \$/cum	807.7	804.1	804.9	770.8	689.2	721.2	779.0	806.3	958.3	748.9	804.5
Sawnwood, Malaysia \$/cum	796.0	792.4	781.0	859.9	813.7	829.7	771.4	807.4	889.1	805.5	786.7
Woodpulp \$/mt	731.4	752.6	765.0	711.0	565.1	550.0	627.7	715.6	820.2	614.6	758.8
<b>Other Raw Materials</b>											
Cotton A Index ¢/kg	167.6	170.6	176.3	126.9	120.8	132.4	141.9	157.7	157.4	138.2	173.4
Cotton Memphis ¢/kg	179.5	177.7	177.1	129.4	122.4	137.5	148.8	172.4	161.3	145.3	177.4
Rubber RSS1, US ¢/kg	310.0	335.1	343.3	202.8	165.8	187.0	221.0	284.7	284.1	214.6	339.2
Rubber RSS3, SGP ¢/kg	280.1	309.2	312.7	159.0	146.0	166.4	199.3	256.5	258.6	192.1	311.0
<b>Fertilizers</b>											
DAP \$/mt	360.4	427.5	490.5	663.3	362.2	303.6	309.6	316.9	967.2	323.1	459.0
Phosphate rock \$/mt	90.0	97.5	103.8	371.3	193.3	113.3	90.0	90.0	345.6	121.7	100.6
Potassium chloride \$/mt	399.0	354.4	335.0	766.7	865.2	726.7	506.8	423.0	570.1	630.4	344.7
TSP \$/mt	232.0	296.3	300.0	658.7	321.7	247.7	224.7	235.7	879.4	257.4	298.1
Urea \$/mt	261.1	275.8	288.6	292.2	267.3	241.1	241.6	248.3	492.7	249.6	282.2
<b>Metals and Minerals</b>											
Aluminum \$/mt	2,180	2,235	2,049	1,821	1,360	1,485	1,812	2,003	2,573	1,665	2,142
Copper \$/mt	6,982	7,386	6,848	3,905	3,428	4,663	5,859	6,648	6,956	5,150	7,117
Gold \$/toz	1,135	1,118	1,095	795	909	922	960	1,102	872	973	1,107
Iron ore ¢/dmtu	101.0	101.0	101.0	140.6	101.0	101.0	101.0	101.0	140.6	101.0	101.0
Lead ¢/kg	232.9	236.8	212.4	124.5	115.7	149.9	192.8	229.3	209.1	171.9	224.6
Nickel \$/mt	17,066	18,439	18,976	10,843	10,471	12,920	17,700	17,528	21,111	14,655	18,708
Silver ¢/toz	1,764	1,775	1,587	1,020	1,265	1,376	1,477	1,760	1,500	1,469	1,681
Steel products index 2000=100	205.1	205.8	208.5	310.4	274.5	215.5	210.8	207.4	289.3	227.1	207.1
Steel cr coilsheet \$/mt	700	700	700	1,100	1,033	700	700	700	966	783	700
Steel hr coilsheet \$/mt	600	600	600	1,000	933	600	600	600	883	683	600
Steel rebar \$/mt	490	510	550	630	473	450	500	522	760	486	530
Steel wire rod \$/mt	768	750	750	1,200	1,200	1,007	857	814	1,010	969	750
Tin ¢/kg	1,555	1,771	1,636	1,310	1,103	1,351	1,459	1,517	1,851	1,357	1,704
Zinc ¢/kg	237.6	243.4	215.7	118.5	117.2	147.3	176.1	221.4	187.5	165.5	229.6

\$ = US dollar; ¢ = US cent; bbl = barrel; cum = cubic meter; dmtu = Dry Metric Ton Unit; kg = kilogram; mmbtu = million British thermal units; mt = metric ton; toz = troy oz; n.a. = not available; n.q. = no quotation

route and remittances under the approval route should be made and reported on-line in Part II, only after receipt of the letter, confirming the UIN from the Reserve Bank.

7. AD Category - I banks may bring the contents of this circular to the notice of their con-

stituents and customers concerned.

8. The directions contained in this Circular have been issued under Section 10 (4) and 11 (1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and is without prejudice to permissions / approvals, if any, required under any other law.

## **RBI Extends ECB Facility to Cold Storage for Preservation of Agri and Marine Products**

*Sub: External Commercial Borrowings (ECB) Policy*

AP(DIR Srs) Attention of Authorised Dealer  
Cir.38 Category - I (AD Category - I)  
02.03.2010 banks is invited to the A.P.  
(RBI) (DIR Series) Circular No. 5  
dated August 1, 2005 and A.P.  
(DIR Series) Circular No. 20 dated October 8,  
2008 relating to External Commercial Borrowings (ECB).

2. As per the extant ECB policy, infrastructure sector is defined as (i) power, (ii) telecommunication, (iii) railways, (iv) road including bridges, (v) sea port and airport, (vi) industrial parks, (vii) urban infrastructure (water supply, sanitation and sewage projects) and (viii) mining, exploration and refining.

3. As announced in para 54 of the Union Budget for the Year 2010-11, it has been decided to expand the definition of infrastructure sector, for the purpose of availing of ECB, to include "cold storage or cold room facility, including for farm level pre-cooling, for preservation or storage of agricultural and allied produce, marine products and meat". Accordingly, the infrastructure sector would henceforth be defined to include (i) power, (ii) telecommunica-

tion, (iii) railways, (iv) road including bridges, (v) sea port and airport, (vi) industrial parks, (vii) urban infrastructure (water supply, sanitation and sewage projects), (viii) mining, exploration and refining and (ix) cold storage or cold room facility, including for farm level pre-cooling, for preservation or storage of agricultural and allied produce, marine products and meat.

4. All other aspects of the ECB policy, such as, USD 500 million limit per company per financial year under the automatic route, eligible borrower, recognised lender, end-use, average maturity period, prepayment, refinancing of existing ECB, reporting arrangements and terms and conditions stipulated in the A.P. (DIR Series) Circulars shall remain unchanged.

5. AD Category-I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

6. The directions contained in this circular have been issued under sections 10(4) and 11 (1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and is without prejudice to permissions/approvals, if any, required under any other law.

## **New Category of Infrastructure Finance NBFC Announced without Restrictions of Government Source**

*Sub: External Commercial Borrowings (ECB) Policy*

AP(DIR Srs) Attention of Authorised Dealer  
Cir.39 Category - I (AD Category - I)  
02.03.2010 banks is invited to the A.P.  
(RBI) (DIR Series) Circular No. 5  
dated August 1, 2005, A.P.

(DIR Series) Circular No. 46 dated January 2, 2009, A.P. (DIR Series) Circular No. 71 dated June 30, 2009 and para 2 (iv) of A.P. (DIR Series) Circular No. 19 dated December 9, 2009 relating to the External Commercial Borrowings (ECB).

2. As per the extant ECB policy, Non-Banking Finance Companies (NBFCs), which are exclusively engaged in financing of infrastructure sector, are permitted to avail of ECB from the recognized lender category including international banks, under the approval route, for on-lending to the infrastructure sector, as defined in the extant ECB policy.

3. In view of the thrust given to the development of the infrastructure sector, a separate category of NBFCs viz. Infrastructure Finance Companies (IFCs) has been introduced in terms of the guidelines contained in circular DNBS.PD.CC No. 168/03.02.089/2009-10 dated February 12, 2010. In view of the new category

of NBFCs being in place, the dispensation provided in para 2 above is not considered necessary. Accordingly, proposals for ECBs by the IFCs, which have been classified as such by the Reserve Bank, for on-lending to the infrastructure sector, as defined in the extant ECB policy may be considered under the approval route, subject to their complying with the following conditions:

i) compliance with the norms prescribed in the aforesaid DNBS Circular dated February 12, 2010;

ii) hedging of the currency risk in full; and

iii) the total outstanding ECBs including the proposed ECB not exceeding 50 per cent of the Owned Funds.

The AD Category-I bank should certify the compliance with the above conditions by the IFCs.

4. All other aspects of ECB policy such as USD 500 million limit per company per financial year under the automatic route, eligible borrower, recognised lender, end-use, average maturity period, prepayment, refinancing of existing ECB, reporting arrangements and terms

and conditions stipulated in the A.P. (DIR Series) Circulars shall remain unchanged.

5. AD Category-I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

6. The directions contained in this circular have been issued under sections 10(4) and 11 (1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and is without prejudice to permissions/approvals, if any, required under any other law.

## **New Norms for Rupee Loans against Valuation Guarantee**

*Sub: External Commercial Borrowings (ECB) Policy – Structured Obligations*

AP(DIR Srs) Attention of Authorised Dealer  
Cir.40 Category - I (AD Category - I)  
02.03.2010 banks is invited to Notification  
(RBI) No. FEMA 29 / 2000-RB dated  
September 26, 2000 viz.

Payment to person resident outside India on invocation of guarantee, A.P. (DIR Series) Circular No. 28 dated March 30, 2001 and A.P. (DIR Series) Circular No. 5 dated August 1, 2005 relating to External Commercial Borrowings (ECB).

2. Borrowing and lending of Indian Rupees between two persons resident in India does not attract the provisions of the Foreign Exchange Management Act, 1999. In case where a Rupee loan is granted against the guarantee provided by a person resident outside India, there is no transaction involving foreign exchange until the guarantee is invoked and the non-resident guarantor is required to meet the liability under the guarantee. The Reserve Bank vide Notification No. FEMA 29/2000-RB dated September 26, 2000 has granted general permission to a person resident in India, being a principal debtor, to make payment to a person resident outside India, who has met the liability under a guarantee.

3. As per the extant policy, domestic Rupee denominated structured obligations have been permitted to be credit enhanced by non-resident entities under the approval route. In view of the growing needs of funds in the infrastructure sector, the existing norms have been reviewed and it has been decided to put in place a comprehensive policy framework on credit enhancement to domestic debt as indicated below:

4. It has since been decided that the facility of credit enhancement by eligible non-resident entities may be extended to domestic debt raised through issue of capital market instruments, such as debentures and bonds, by Indian companies engaged exclusively in the development of infrastructure and by the Infrastructure Finance Companies (IFCs), which have been classified as such by the Reserve Bank in terms of the guidelines contained in the circular DNBS.PD. CC No. 168 / 03.02.089 / 2009-10 dated February 12, 2010, subject to the following conditions:

i) credit enhancement will be permitted to be provided by multilateral / regional financial institutions and Government owned development financial institutions;

ii) the underlying debt instrument should have a minimum average maturity of seven years;

iii) prepayment and call / put options would not be permissible for such capital market instruments up to an average maturity period of 7 years;

iv) guarantee fee and other costs in connection with credit enhancement will be restricted to a maximum 2 per cent of the principal amount involved;

v) on invocation of the credit enhancement, if the guarantor meets the liability and if the same is permissible to be repaid in foreign currency to the eligible non-resident entity, the all-in-cost ceilings, as applicable to the relevant maturity period of the Trade Credit / ECBs, would apply to the novated loan. Presently, the all-in-cost ceilings, depending on the average maturity period, are applicable as follows:

Average maturity period of the loan on invocation	All-in-cost ceilings over 6 month Libor*
Up to 3 years	200 basis points
Three years and up to five years	300 basis points
More than five years	500 basis points

\*for the respective currency of borrowing or applicable benchmark 3

vi) In case of default and if the loan is serviced in Indian Rupees, the applicable rate of interest would be the coupon of the bonds or 250 bps over the prevailing secondary market yield of 5 years Government of India security, as on the date of novation, whichever is higher;

vii) IFCs proposing to avail of the credit enhancement facility should comply with the eligibility criteria and prudential norms laid down in the circular DNBS.PD.CC No.168 / 03.02.089 / 2009-10 dated February 12, 2010 and in case the novated loan is designated in foreign currency, the IFC should hedge the entire foreign currency exposure; and

viii) The reporting arrangements as applicable to the ECBs would be applicable to the novated loans.

5. Necessary amendments to the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000 dated May 3, 2000 are being issued separately wherever necessary.

6. AD Category-I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

7. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and is without prejudice to permissions/approvals, if any, required under any other law.

## Limited Powers to Approve ECB Conditions given to ADs

Sub: External Commercial Borrowings (ECB) Policy - Liberalisation

AP(DIR Sr) Attention of Authorized Dealer Category-I (AD  
Cir.33 Category- I) banks is invited to the Foreign Exchange  
09.02.2010 Management (Borrowing or Lending in Foreign  
(RBI) Exchange) Regulations, 2000, notified vide Notification  
No. FEMA 3/2000-RB dated May 3, 2000, amended

## Customs Valuation Exchange Rates

March 2010	Imports	Exports	
<b>Schedule I</b>			
1 Australian Dollar	42.20	40.90	
2 Canadian Dollar	44.95	43.65	
3 Danish Kroner	8.60	8.30	
4 EURO	63.75	62.05	
5 Hong Kong Dollar	6.00	5.90	
6 Norwegian Kroner	7.95	7.70	
7 Pound Sterling	72.65	70.75	
8 Swedish Kroner	6.55	6.35	
9 Swiss Franc	43.60	42.35	
10 Singapore Dollar	33.25	32.35	
11 U.S. Dollar	46.65	45.70	
<b>Schedule II</b>			
1 Japanese Yen	51.45	50.00	

Rate of exchange of one unit of foreign currency equipment to Indian Rupees

Rate of exchange of 100 units of foreign currency equivalent to Indian rupees

(Source: Customs Notification 17(NT)/24.02.2010)

## Commodity Spot Prices in India – 05-08 March 2010

These commodity prices are taken from Multi Commodity Exchange of India (Mumbai) at 6 pm every day. The weekly prices of commodities from different cities of India will be given in the order of Harmonized System classification.

Commodity Spot Prices covers price movements of 55 commodities (agricultural products and metals) provided on Multi Commodity Exchange of India on a daily basis. This Commodity Spot Prices Table focuses on price movements from 05-08 March.

Commodity	Unit	Market	05-Mar	06-Mar	08-Mar
CER (Carbon Trading)	1 MT	Mumbai	735.5	740	740
Chana	100 KGS	Delhi	2159	2170	2160
Masur	100 KGS	Indore	3303	3302	3384
Potato	100 KGS	Agra	637.1	637.8	646.2
Potato TKR	100 KGS	Tarkeshwar	NA	NA	NA
Arecanut	100 KGS	Mangalore	7600	7600	7558
Cashewkern	1 KGS	Quilon	290	291	288
Cardamom	1 KGS	Vandanmedu	1084.7	1080.7	1060
Coffee ROB	100 KGS	Kushalnagar	57.4	56.4	55.7
Jeera	100 KGS	Unjha	11740	11852	11797
Pepper	100 KGS	Kochi	13140	13088	13080
Red Chili	100 KGS	Guntur	5037	5037	5007
Turmeric	100 KGS	Nzmbad	8775	8775	9125
Guar Gum	100 KGS	Jodhpur	4850	4875	4875
Maize	100 KGS	Nzmbad	848.5	848	847
Wheat	100 KGS	Delhi	1277.1	1285.4	1274.2
Mentha Oil	1 KGS	Chandausi	649.2	652.3	657.5
Cotton Seed	100 KGS	Akola	1229	1229	1198
Castorsd RJK	100 KGS	Rajkot	2873	2875	2871
Guar Seed	100 KGS	Jodhpur	2345	2351	2310
Soya Bean	100 KGS	Indore	2095	2097.5	2085
Mustrdsd JPR	20 KGS	Jaipur	491.1	491.7	480
Sesame Seed	100 KGS	Rajkot	5663	5663	5663
Coconut Oil Cake	100 KGS	Kochi	1144	1144	1144
RCBR Oil Cake	1 MT	Raipur	5653	5653	5660
Kapaskhali	50 KGS	Akola	1060.8	1060.4	1053.5
Coconut Oil	100 KGS	Kochi	5200	5200	5148
Refsoy Oil	10 KGS	Indore	459.15	461	459
CPO	10 KGS	Kandla	371	371.5	373
Mustard Oil	10 KGS	Jaipur	472.2	473.2	463.4
Gnutoilexp	10 KGS	Rajkot	672.5	673.3	675
Castor Oil	10 KGS	Kandla	610	612.5	615
Crude Oil	1 BBL	Mumbai	3675	3731	3731
Furnace Oil	1000 KGS	Mumbai	30188	30188	30214
Sourcrd Oil	1 BBL	Mumbai	3540.5	3540.5	3630.5
Brent Crude	1 BBL	Mumbai	3591	3635	3635
Gur	40 KGS	Muzngr	1004	1003.6	979.3
Sugars	100 KGS	Kolhapur	3067	2980	2977
Sugarm	100 KGS	Delhi	3504	3490	3500
Natural Gas	1 mmBtu	Hazirabad	209.6	210.3	210.3
Rubber	100 KGS	Kochi	14419	14390	14425
Cotton Long	1 Candy	Kadi	27870	27850	27890
Cotton Med	1 Maund	Abohar	2638	2641	2657
Jute	100 KGS	Kolkata	3035	3038.5	3071
Gold	10 GRMS	Ahmd	16915	16900	16875
Gold Guinea	8 GRMS	Ahmd	13532	13520	13500
Silver	1 KGS	Ahmd	26740	26915	26910
Sponge Iron	1 MT	Raipur	17900	17935	17695
Steel Flat	1000 KGS	Mumbai	31730	31730	32650
Steel Long	1 MT	Bhavnagar	27650	27700	27580
Copper	1 KGS	Mumbai	341	344.9	344.9
Nickel	1 KGS	Mumbai	1032.8	1029.5	1027
Aluminium	1 KGS	Mumbai	100.75	100.75	100.85
Lead	1 KGS	Mumbai	100	99.6	102.15
Zinc	1 KGS	Mumbai	103.4	103.3	107.2
Tin	1 KGS	Mumbai	790.25	797.25	794

(Source: MCX Spot Prices)

from time to time and the A.P. (DIR Series) Circular No. 5 dated August 1, 2005 relating to the External Commercial Borrowings (ECB).

2. As per the extant ECB procedures, any changes in the terms and conditions of the ECB after obtaining the Loan Registration Number (LRN) from the Department of Statistics and Information Management (DSIM), Reserve Bank, require the prior approval of the Reserve

Bank. Accordingly, the requests of the borrowers for changes in the terms and conditions, such as, drawdown / repayment schedules, currency of borrowing and changes in designated AD bank, name of the borrowing company, etc. are referred to the Reserve Bank for necessary approval.

3. As a measure of simplification of the existing procedures, it has been decided to delegate

powers to the designated AD category-I banks to approve the following requests from the ECB borrowers, subject to specified conditions:

**a) Changes / modifications in the drawdown / repayment schedule**

Designated AD Category – I banks may approve changes / modifications in the drawdown / repayment schedule of the ECBs already availed, both under the approval and the automatic routes, subject to the condition that the average maturity period, as declared while obtaining the LRN, is maintained. The changes in the drawdown / repayment schedule should be promptly reported to the DSIM, Reserve Bank in Form 83. However, any elongation / rollover in the repayment on expiry of the original maturity of the ECB would require the prior approval of the Reserve Bank.

**b) Changes in the currency of borrowing**

Designated AD Category I banks may allow changes in the currency of borrowing, if so desired, by the borrower company, in respect of ECBs availed of both under the automatic and the approval routes, subject to all other terms and conditions of the ECB remaining unchanged. Designated AD banks should, however, ensure that the proposed currency of borrowing is freely convertible.

**c) Change of the AD bank**

Designated AD Category - I banks may allow change of the existing designated AD bank by the borrower company for effecting its transactions pertaining to the ECBs subject to No-Objection Certificate (NOC) from the existing designated AD bank and after due diligence.

**d) Changes in the name of the Borrower Company**

Designated AD Category - I banks may allow changes in the name of the borrower company subject to production of supporting documents evidencing the change in the name from the Registrar of Companies.

4. The modifications to the ECB guidelines will come into force with immediate effect. All other aspects of the ECB policy, such as USD 500 million 3

limit per company per financial year under the automatic route, eligible borrower, recognised lender, end-use, all-in-cost ceiling, average maturity period, prepayment, refinancing of existing ECB and reporting arrangements remain unchanged.

5. AD Category –I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

6. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

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